

Initial Statement of Reasons
California Code of Regulations
Title 9. Rehabilitative and Developmental Services
Division 1. Department of Mental Health
Chapter 11. Medi-Cal Specialty Mental Health Services

Introduction

The Department of Mental Health (DMH) administers the Medi-Cal Specialty Mental Health Services Consolidation Waiver Program via a federal 1915(b) waiver of specific provisions of Title XIX of the Social Security Act. The waiver was originally approved by the Centers for Medicare and Medicaid Services (CMS)¹ in 1995 and has been approved for renewal on an ongoing basis since then.

Under the Medi-Cal Specialty Mental Health Services Consolidation Waiver Program, Mental Health Plans (MHPs) are required to contract with DMH for the provision of specialty mental health services² to Medi-Cal recipients. An MHP may be a county, counties acting jointly, or another governmental or non-governmental entity. Currently all MHPs are counties. DMH and MHPs share the financial risk of providing specialty mental health services.

The contract between an MHP and DMH is referred to as the DMH/MHP contract. The DMH/MHP contract is intended to serve as an agreement that operationalizes the working relationship between DMH and MHPs and clarifies statutory and regulatory requirements. When an MHP contracts with DMH, all Medi-Cal beneficiaries of that county are eligible to receive Medi-Cal funded specialty mental health services only through the MHP and when the beneficiaries meet medical necessity. DMH is not obligated to pay the MHP absent an executed contract with the MHP.

During Fiscal Year (FY) 2007/08 DMH convened a workgroup to review the current DMH/MHP contract for relevance, and address issues needing modification. The workgroup had representation from the County Mental Health Directors Association (CMHDA) (non-profit organization representing county mental health directors) and DMH staff. The workgroup's chief concern was to reduce MHPs' administrative burden by removing requirements from the DMH/MHP contract that are not required by statute or regulation and identifying the proper location for remaining requirements. The workgroup identified several DMH/MHP contract requirements that would be more appropriately codified in regulation rather than included in the DMH/MHP contract. The workgroup established and used the following criteria to determine if the identified DMH/MHP contract provisions should be included in regulation and subsequently removed from the DMH/MHP contract:

¹ In 1995 the federal agency now known as CMS was called the Health Care Financing Administration (HCFA). HCFA was renamed the "Centers for Medicare and Medicaid Services" (CMS) in 2001.

² "Specialty Mental Health Services" are defined at Title 9, CCR, Section 1810.247.

1. To ensure consistency, provisions that already exist in other state and/or federal statute or regulation should be included in Title 9, California Code of Regulations (CCR), Chapter 11 regulations, either by reference or by inclusion of the regulatory text;
2. All regulatory language regarding issues essential to the efficient and effective operation of the Medi-Cal Specialty Mental Health Consolidation Waiver Program should be incorporated into Title 9, CCR, Chapter 11 regulations. These issues relate to:
 - a. Quality of care;
 - b. MHP accountability for providing medically necessary services;
 - c. Provider accountability; and
 - d. Fiscal accountability.
3. Provisions that delineate MHP authority should be in Title 9, CCR, Chapter 11 regulations; and
4. Provisions that are broad-spectrum policy issues should be in Title 9, CCR, Chapter 11 regulations, leaving clarification or operational detail in the DMH/MHP contract.

The objectives of this proposed regulation package are to:

- Eliminate duplicative requirements being specified in multiple locations;
- Consolidate and standardize MHP requirements in Title 9, CCR, Chapter 11; and
- Reinforce the purpose of the DMH/MHP contract as being an agreement that operationalizes the working relationship between DMH and MHPs and clarifies statutory and regulatory requirements.

To meet these objectives, DMH is adopting the following provisions. Specific necessity for each section is included below:

Subchapter 1. General Provisions

Article 3. Administration

1) Section 1810.317. Contract Term.

Section 1810.317, Subdivision (a)

Specific Purpose: Subdivision (a) of Section 1810.317 specifies the term and expiration date of the DMH/MHP contract.

Rationale for Necessity: Adding Subdivision (a) is necessary because of the addition of Subdivision (b). The language of Subdivision (a) existed prior to this regulation package, but Section 1810.317 was not previously subdivided.

Section 1810.317, Subdivision (b)

Specific Purpose: Subdivision (b) of Section 1810.317 is added to require the MHP to assist the Department in the transfer of beneficiaries' mental health care prior to the expiration of the DMH/MHP contract and to specify documents that the MHP must make available to the Department. Subdivision (b) of Section 1810.317 further specifies which party shall bear the costs incurred by making copies.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section Q, "Transfer of Care." The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Waiver Program related to quality of care. It ensures that continuity of care standards are consistent and maintained statewide and establishes conditions related to the term of the DMH/MHP contract.

2) Section 1810.321. Contract Renewal.

Section 1810.321, Subdivision (d)

Specific Purpose: Subdivision (d) of Section 1810.321 is added to require the MHP to assist the Department in the transfer of beneficiaries' mental health care prior to the nonrenewal of the DMH/MHP contract and to specify documents that the MHP must make available to the Department. Subdivision (d) of Section 1810.321 further specifies which party shall bear the costs incurred by making copies.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section Q, "Transfer of Care." The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Waiver Program related to quality of care. It ensures that continuity of care standards are consistent and maintained statewide and establishes conditions related to the renewal of the DMH/MHP contract.

3) Section 1810.323. Contract Termination.

Section 1810.323, Subdivision (j)

Specific Purpose: Subdivision (j) of Section 1810.323 is added to require the MHP to assist the Department in the transfer of beneficiaries' mental health care prior to the termination of the DMH/MHP contract and to specify documents that the MHP must make available to the Department. Subdivision (j) of Section 1810.323 further specifies which party shall bear the costs incurred by making copies.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section Q, "Transfer of Care." The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Waiver Program related to quality of care. It ensures that continuity of care standards are consistent and maintained statewide and establishes conditions related to the termination of the DMH/MHP contract.

4) Section 1810.326. Practice Guidelines.

Specific Purpose: Section 1810.326 is added to require MHPs to comply with Title 42, Code of Federal Regulations (CFR), Section 438.236 regarding practice guidelines.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, "Additional Requirements Based on Federal Regulations", Item #8. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. Specifically, this addition ensures that the MHPs' practice guidelines meet federal requirements. Meeting this federal requirement is essential in order for the Department to comply with federal waiver requirements and to continue waiver approval and federal funding.

5) Section 1810.345. Scope of Covered Specialty Mental Health Services.

Section 1810.345, Subdivision (d)

Specific Purpose: Subdivision (d) of Section 1810.345 is amended to allow MHPs to place appropriate limits on services.

Rationale for Necessity: This amendment replaces the original Subdivision (d) of Section 1810.345 which was changed to Subdivision (g) of Section 1810.345 with language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – B, “MHP Payment Authorization.” The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. Specifically, this regulation is necessary to provide clarity on coverage of specialty mental health services, ensure appropriate beneficiary access to services, and ensure that utilization management activities are not structured in a manner that is detrimental to beneficiaries.

Section 1810.345, Subdivision (e)

Specific Purpose: Subdivision (e) of Section 1810.345 is added to specify that MHPs are financially responsible for post-stabilization care services as specified.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – C, “Post-Stabilization Care Services.” The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. Specifically, this regulation is necessary to ensure that beneficiaries receive needed post-stabilization care services on a timely basis by clarifying when the MHP is financially responsible for covering these services thus avoiding delays in service based on uncertainty of reimbursement.

Section 1810.345, Subdivisions (f)(1) and (f)(2)

Specific Purpose: Subdivisions (f)(1) and (f)(2) of Section 1810.345 are added to require MHPs to obtain prior approval from the Department if they intend to refuse to provide or pay for a covered service based on moral or religious objections. Subdivisions (f)(1) and (f)(2) of Section 1810.345 further specify the conditions under which the Department will approve a request and the actions the Department may take upon disapproval of a request.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #6. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program

related to quality of care. Specifically, this regulation is necessary to ensure beneficiaries access to all covered specialty mental health services regardless of whether their MHP provides them.

Section 1810.345, Subdivision (g)

Specific Purpose: Subdivision (g) of Section 1810.345 allows MHPs to exclude psychiatric nursing facility services under specified circumstances.

Rationale for Necessity: Subdivision (g) of Section 1810.345 contains the same language as the previous Subdivision (d) of Section 1810.345. The subdivisions of Section 1810.345 were reordered to follow logical sequencing.

6) Section 1810.350. Scope of Covered Psychiatric Inpatient Hospital Services.

Section 1810.350, Subdivisions (e)(1) and (e)(2)

Specific Purpose: Subdivisions (e)(1) and (e)(2) of Section 1810.345 are added to require MHPs to obtain prior approval from the Department if they intend to refuse to provide or pay for a covered service based on moral or religious objections. Subdivisions (e)(1) and (e)(2) of Section 1810.345 further specify the conditions under which the Department will approve a request and the actions the Department may take upon disapproval of a request.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #6. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to quality of care. Specifically, this regulation is necessary to ensure beneficiaries access to all covered specialty mental health services regardless of whether their MHP provides them.

7) Section 1810.360. Notification of Beneficiaries.

Section 1810.360, Subdivision (a)

Specific Purpose: Subdivision (a) of Section 1810.360 is amended to require MHPs to develop, implement, and maintain written policies regarding beneficiaries' rights and communicate the policies to beneficiaries.

Rationale for Necessity: This amendment replaces the original Subdivision (a) of Section 1810.360 which was changed to Subdivision (b) of Section 1810.360 with language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #4. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to quality of care. It is further necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. This regulation is necessary to provide specific, consistent beneficiary protections. This regulation also ensures that MHPs comply with federal and state laws affecting beneficiary rights and consider these rights when furnishing services.

Section 1810.360, Subdivisions (b), (c), (d), (e), and (f)

Specific Purpose: Subdivisions (b), (c), (d), (e), and (f) of Section 1810.360 are amended to renumber former Subdivisions (a), (b), (c), (d), and (e) of Section 1810.360 respectively. There are no language changes to these subdivisions.

Rationale for Necessity: Renumbering of subdivisions is necessary to follow logical sequencing.

Section 1810.360, Subdivision (g)

Specific Purpose: Subdivision (g) of Section 1810.360 is adopted to specify required updates to the booklet regarding advance directives and to require MHPs to maintain written policies about advance directives.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #1. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to quality of care. It is further necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. This regulation is necessary to ensure MHP compliance with federal advance directive requirements.

Section 1810.360, Subdivision (h)

Specific Purpose: Subdivision (h) of Section 1810.360 is adopted to require MHPs to notify beneficiaries when the MHP terminates a provider's contract.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #3. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to quality of care. It is further necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. This regulation is necessary to ensure that MHPs properly inform beneficiaries of specific occurrences that affect the provision of their specialty mental health services in a manner and format that is easily understood.

8) Section 1810.365. Beneficiary Billing.

Section 1810.365, Subdivision (c) and (c)(1)-(5)

Specific Purpose: Subdivision (c) and (c)(1)-(5) are adopted to prohibit MHPs from holding beneficiaries financially responsible for debts in specified circumstances.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #7. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to quality of care and fiscal accountability. It is further necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. Specifically, this regulation is necessary to protect beneficiaries from being held financially liable for debts that are the MHP’s responsibility.

9) Section 1810.375. MHP Reporting.

Section 1810.375, Subdivision (d)

Specific Purpose: Subdivision (d) of Section 1810.375 is amended to clarify the authority for requiring MHPs to report their annual unexpended balances remaining from their annual allocation. It further specifies that MHPs and/or the entity administering the small county emergency risk pool are not required to return excess funds to the Department.

Rationale for Necessity: This amendment clarifies language already in Subdivision (d) or Section 1810.375 and is necessary to ensure that the Department fulfills its monitoring and evaluating responsibilities in a cost-effective manner in accordance with Welfare and Institutions Code, Section 5777(a)(1). The amendment is necessary because it clarifies a broad-spectrum policy issue that should be incorporated into Title 9, CCR, Chapter 11, leaving operational details in the DMH/MHP contract.

10) Section 1810.376. Health Information Systems.

Section 1810.376, Subdivisions (a), (b), and (b)(1)-(2)

Specific Purpose: Subdivisions (a), and (b)(1)-(2) are added to require the MHP to maintain a health information system and define the basic elements of the information system.

Rationale for Necessity: These additions add language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #9. These additions are necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. Specifically, these regulations are necessary to ensure that MHPs can produce quality assurance and other data required by the Department and CMS.

Section 1810.376, Subdivision (c)

Specific Purpose: Subdivision (c) of Section 1810.376 is added to specify that the Section does not require that all elements of the MHP’s health information system be collected and analyzed in electronic formats.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #9. The federal regulation mandating health information systems is silent on the format of the data collected. The Department interpreted this to mean that data can be collected and analyzed in any format. This regulation is necessary to ease MHP’s administrative burden by allowing them flexibility with their data collection format.

Section 1810.376, Subdivision (d) and (d)(1)

Specific Purpose: Subdivisions (d) and (d)(1) of Section 1810.376 are added to define “persons with special health care needs” and to require MHPs to identify such persons through the administration of surveys in accordance with the Department’s Performance Outcome System.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3, “Additional Requirements Based on Federal Regulations”, Item #11. This addition is necessary because the Department is required to report data regarding persons with special health care needs to CMS as a condition of its waiver approval. Meeting this federal requirement is essential in order for the Department to comply with federal waiver requirements and to continue waiver approval and federal funding.

11) Section 1810.380. State Oversight.

Section 1810.380, Subdivision (a)(2)

Specific Purpose: Subdivision (a)(2) of Section 1810.380 is amended to add that State Oversight will include reviews of MHP books and records.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Sections P, “Books and Records,” and R, “Department Policy Letters.” The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to MHP accountability for providing medically necessary services. Specifically, it is necessary because the Department could not provide adequate and comprehensive oversight without reviewing MHP books and records. Quality oversight is necessary to ensure that services are delivered in a cost effective and efficient manner.

Section 1810.380, Subdivision (a)(2)(A)-(C)

Specific Purpose: Subdivision (a)(2)(A)-(C) is added to specify what constitutes books and records, the purpose of books and records, and how long books and records must be maintained.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section P, “Books and Records.” The regulations are necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to MHP accountability for providing medically necessary services. Specifically, it is necessary to clarify for MHPs the level of detail that their records must contain, what is considered “books and records” for review and audit purposes, what the Department may review, and how long they need to keep the books and records. This information is also necessary for the development of MHPs’ internal policies and procedures on records maintenance.

Section 1810.380, Subdivision (a)(5)

Specific Purpose: Subdivision (a)(5) of Section 1810.380 is amended to include that the Department’s monitoring includes verification that the MHP is accountable for any functions and responsibilities it has delegated to any subcontractor or other MHP in accordance with Title 42, CFR, Section 438.230(a)(1).

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section S, “Delegation.” The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. Specifically, this amendment is necessary to ensure MHP compliance with federal regulations that require them to retain full accountability for any activities they delegate to subcontractors.

Article 4. Standards

12) Section 1810.425. Hospital Selection Criteria.

Section 1810.425, Subdivision (a)(1)

Specific Purpose: Subdivision (a)(1) of Section 1810.425 is amended to include that MHPs also meet the terms of the DMH/MHP contract.

Rationale for Necessity: The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to provider accountability. Specifically, it is necessary because the DMH/MHP contract contains essential operational details necessary for efficient and effective program operation.

13) Section 1810.430. Contracting for Psychiatric Inpatient Hospital Service Availability.

Section 1810.430, Subdivision(d)(7)

Specific Purpose: Subdivision (d)(7) of Section 1810.430 is added to specify that if a contract between an MHP and a provider of psychiatric hospital inpatient services exceeds \$10,000 and utilizes State funds that it must contain a provision stating that both contracting parties shall be subject to examination and audit by the Auditor General and the State Auditor General for three years after the final payment under the contract is made.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section P. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to fiscal accountability. Subsection (d) is necessary to specify minimum requirements that must appear in all contracts between hospitals and MHPs. These standardized requirements are necessary to assure that minimum performance standards exist statewide, that State and federal legal and regulatory requirements are met, and that beneficiaries have adequate access to quality care. Subdivision (d)(7) requires Department and MHP compliance with Government Code, Section 8546.7 which applies to both parties and ensures that performance under the contract meets both parties' obligations and standards.

Section 1810.430, Subdivision (e)

Specific Purpose: Subdivision (e) of Section 1810.430 is replaced with new language specifying that the MHP must ensure that compensation arrangements for psychiatric hospital inpatient providers that conduct utilization management activities do not provide incentives for the provider to deny, limit, or discontinue medically necessary services to a beneficiary.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section P. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to fiscal accountability and quality of care. Specifically, it is necessary to ensure appropriate beneficiary access to services by prohibiting utilization management activities from being structured in a manner that is detrimental to beneficiaries. Renumbering is necessary for logical sequencing.

Section 1810.430, Subdivision (f)

Specific Purpose: Subdivision (f) of Section 1810.430 is replaced with new language specifying that MHP contracts with psychiatric inpatient services providers must include written policies addressing beneficiaries' rights.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3 – #4. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. This regulation is necessary to provide specific, consistent beneficiary protections. This regulation also ensures that MHPs comply with federal and state laws affecting beneficiary rights and consider these rights when furnishing services.

Section 1810.430, Subdivisions (g) and (h)

Specific Purpose: Subdivisions (g) and (h) of Section 1810.430 are amended to renumber former Subdivisions (e) and (f) of Section 1810.430 respectively. There are no language changes to these subdivisions.

Rationale for Necessity: Renumbering of subdivisions is necessary to follow logical sequencing.

14) Section 1810.435. MHP Individual, Group, and Organizational Provider Selection Criteria.

Section 1810.435, Subdivision (d)

Specific Purpose: Subdivision (d) is amended to allow MHPs to accept the certification of a provider by another MHP or by the Department.

Rationale for Necessity: This amendment adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section S. The amendment is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to quality of care and MHP accountability for providing medically necessary services. Specifically, this regulation reduces MHPs' administrative burden by eliminating duplication of efforts among MHPs.

15) Section 1810.436. MHP Individual, Group and Organizational Provider Contracting Requirements.

Section 1810.436, Subdivision (a)(6)

Specific Purpose: Subdivision (a)(6) of Section 1810.436 is added to specify that if a contract between an MHP and a provider exceeds \$10,000 and utilizes State funds that it must contain a provision stating that both contracting parties shall be subject to examination and audit by the Auditor General and the State Auditor General for three years after the final payment under the contract is made.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section P. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to fiscal accountability. Subsection (a) is necessary to provide the minimum standards for contracts between MHPs and specialty mental health providers. These standardized requirements must be met in all contracts between MHPs and their contracts with individual, group, and organizational providers to assure that minimum standards exist statewide, that State and federal legal and regulatory requirements are met, and that provision of services to beneficiaries is of the same standard as to all other patients. Subdivision (a)(6) requires Department and MHP compliance with Government Code, Section 8546.7 which applies to both parties and ensures that performance under the contract meets both parties' obligations and standards.

Section 1810.436, Subdivision (b)

Specific Purpose: Subdivision (b) of Section 1810.436 is replaced with new language specifying that the MHP must ensure that compensation arrangements for individual, group, and organizational providers that conduct utilization management activities do not provide incentives for the provider to deny, limit, or discontinue medically necessary services to a beneficiary.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section P. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to fiscal accountability and quality of care. Specifically, it is necessary to ensure appropriate beneficiary access to services by prohibiting utilization management activities from being structured in a manner that is detrimental to beneficiaries. Renumbering is necessary for logical sequencing.

Section 1810.436, Subdivision (c)

Specific Purpose: Subdivision (c) of Section 1810.436 is amended to renumber former Subdivisions (b) of Section 1810.436. There is no language change to this subdivision.

Rationale for Necessity: Renumbering of subdivisions is necessary to follow logical sequencing.

Section 1810.436, Subdivision (d)

Specific Purpose: This addition requires that MHP contracts with individual, group, and organizational providers include written policies addressing beneficiaries' rights.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3 – #4. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. This section requires each MHP to have written policies with respect to beneficiary rights and that each MHP ensure compliance with Federal and State laws affecting the rights of beneficiaries, and ensure that its staff and affiliated providers take these rights into account when furnishing services.

16) Section 1810.438. Alternative Contracts and Payment Arrangements Between MHPs and Providers.

Section 1810.438, Subdivision (b)(1)

Specific Purpose: Subdivision (b)(1) of Section 1810.438 is amended to specify that the MHP must ensure that compensation arrangements for providers that conduct utilization management activities do not provide incentives for the provider to deny, limit, or discontinue medically necessary services to a beneficiary.

Rationale for Necessity: This amendment adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section P. The amendment is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to fiscal accountability.

Section 1810.438, Subdivision (b)(2)

Specific Purpose: Subdivision (b)(2) of Section 1810.438 is amended to specify that if a contract between an MHP and a provider exceeds \$10,000 and utilizes State funds that it must contain a provision stating that both contracting parties shall be subject to examination and audit by the Auditor General and the State Auditor General for three years after the final payment under the contract is made.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section P. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to fiscal accountability.

Section 1810.438, Subdivision (d)

Specific Purpose: This addition requires that MHP contracts with providers include written policies addressing beneficiaries' rights.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3 – #4. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference. This section requires each MHP to have written policies with respect to beneficiary rights and that each MHP ensure compliance with Federal and State laws affecting the rights of beneficiaries, and ensure that its staff and affiliated providers take these rights into account when furnishing services.

Section 1810.438, Subdivisions (e), (f), and (g)

Specific Purpose: Subdivisions (e), (f), and (g) of Section 1810.438 are amended to renumber former Subdivisions (d), (e), and (f) of Section 1810.438 respectively. There are no language changes to these subdivisions.

Rationale for Necessity: Renumbering of subdivisions is necessary to follow logical sequencing.

Section 1810.438, Subdivision (h)

Specific Purpose: Subdivision (h) of Section 1810.438 is added to require MHPs to obtain prior Department approval before implementing a physician incentive plan. It also specifies the circumstances under which the Department will approve such a request.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3 – #2. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to fiscal accountability. It also ensures consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

17) Section 1810.439. Provider-Beneficiary Communications.

Section 1810.439, Subdivision (a)

Specific Purpose: This section is added to specify that MHPs may not prohibit or restrict a licensed, waived, or registered professional acting within their scope of practice from advising or advocating on behalf of a beneficiary for whom the provider is providing mental health services.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3 – #5. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Subchapter 2. Medi-Cal Psychiatric Inpatient Hospital Services

Article 2. Provision of Services

18) Section 1820.220. MHP Payment Authorization by a Point of Authorization.

Section 1820.220, Subdivision (f)

Specific Purpose: This section is added to require that MHPs consult with a hospital requesting authorization when appropriate.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – B.1.c. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Section 1820.220, Subdivisions (g) and (h)

Specific Purpose: Subdivisions (g), and (h) of Section 1820.220 are amended to renumber former Subdivisions (f), and (g) of Section 1820.220 respectively. There are no language changes to these subdivisions.

Rationale for Necessity: Renumbering of subdivisions is necessary to follow logical sequencing.

Section 1820.220, Subdivision (i)

Specific Purpose: Subdivision (i) of Section 1820.220 [formerly numbered (h)] is amended to specify that MHPs shall consider authorization timeline extensions and MHPs' notification responsibilities to beneficiaries if authorization timelines are extended.

Rationale for Necessity: This amendment adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – B.2.a. The addition is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to quality of care. It also ensures consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Section 1820.220, Subdivision (j)

Specific Purpose: Subdivision (j) of Section 1820.220 is added to specify that MHPs shall notify providers of any decision to deny MHP payment authorization requests or to authorize a service in an amount, duration, or scope that is less than requested. Subdivision (j) of Section 1820.220 replaces the former Subdivision (j) of Section 1820.220 which is renumbered to Subdivision (k) of Section 1820.220.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – B.1.c. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Section 1820.220, Subdivisions (k) and (l)

Specific Purpose: Subdivisions (k), and (l) of Section 1820.220 are amended to renumber former Subdivisions (i), and (j) of Section 1820.220 respectively. There are no language changes to these subdivisions.

Rationale for Necessity: Renumbering of subdivisions is necessary to follow logical sequencing.

19) Section 1820.225. MHP Payment Authorization for Emergency Admission by a Point of Authorization.

Section 1820.225, Subdivision (e)

Specific Purpose: Subdivision (e) of Section 1820.225 is added to specify that MHPs shall notify providers of any decision to deny MHP payment authorization requests or to authorize a service in an amount, duration, or scope that is less than requested. Subdivision (e) of Section 1820.225 replaces the former Subdivision (e) of Section 1820.225 which is renumbered to Subdivision (f) of Section 1820.225.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – B.1.c. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Section 1820.225, Subdivision (f)

Specific Purpose: Subdivision (f) of Section 1820.225 is amended to renumber former Subdivision (e) of Section 1820.225. There are no language changes to this subdivision.

Rationale for Necessity: Renumbering of subdivisions is necessary to follow logical sequencing.

Section 1820.225, Subdivision (g)

Specific Purpose: Subdivision (g) of Section 1820.225 is added to require that MHPs consult with a hospital requesting authorization when appropriate.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – B.1.c. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Subchapter 3. Specialty Mental Health Services Other than Psychiatric Inpatient Hospital Services

Article 2. Provision of Services

20) Section 1830.215. MHP Payment Authorization.

Section 1830.215, Subdivision (a)

Specific Purpose: Subdivision (a) of Section 1830.215 is amended to specify that MHPs shall process payment authorization within the required timelines. It also specifies the circumstances under which an MHP may extend the payment authorization time period when the MHP requires additional information in order to make its authorization determination.

Rationale for Necessity: This amendment adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – B.2.b. The amendment is necessary because it is essential to the efficient and effective operation of the Specialty Mental Health Consolidation Program related to quality of care. It also ensures consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Section 1830.215, Subdivision (h)

Specific Purpose: Subdivision (h) of Section 1830.215 is added to require that MHPs consult with a provider requesting authorization when appropriate.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 2 – B.1.c. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Subchapter 4. Federal Financial Participation

Article 1. General

21) Section 1840.112. MHP Claims Certification and Program Integrity.

Section 1840.112, Subdivisions (c)

Specific Purpose: Subdivision (c) of Section 1840.112 is added to require the MHP's Chief Financial Officer (CFO) or the MHP's CFO's designee to sign the certification that the state share of payment for services covered by a claim have been provided in order to satisfy the matching requirement for FFP.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3 – #10. The addition is necessary to ensure consistency by adding provisions that already exist in other state and/or federal statute or regulation to Title 9, CCR, Chapter 11 regulations, by incorporating the reference.

Section 1840.112, Subdivision (d)

Specific Purpose: Subdivision (d) of Section 1840.112 is added to require the MHP to have mechanisms that support the certification.

Rationale for Necessity: This addition adds language formerly specified in the DMH/MHP contract Exhibit A – Attachment 3 – #10. The addition is necessary because provisions that are broad-spectrum policy issues should be in Title 9, CCR, Chapter 11 regulations.

Subchapter 5. Problem Resolution Processes

Article 2. Fair Hearing and Notice of Action

22) Section 1850.213. Fair Hearings.

Section 1850.213, Subdivision (a)

Specific Purpose: Subdivision (a) of Section 1850.213 specifies that fair hearings shall be administered by the State Department of Health Services.

Rationale for Necessity: Adding Subdivision (a) is necessary because of the addition of Subdivisions (b) and (c). The language of Subdivision (a) existed prior to this regulations package, but Section 1850.213 was not previously subdivided.

Section 1850.213, Subdivisions (b) and (c)

Specific Purpose: Subdivisions (b) and (c) of Section 1850.213 are added to specify that the MHP shall carry out the final decisions of fair hearings with respect to issues within the scope of the MHP's responsibilities under the DMH/MHP contract, and that the section is not intended to prevent the MHP from pursuing available appeal options.

Rationale for Necessity: These additions add language formerly specified in the DMH/MHP contract Exhibit A – Attachment 1 – Section T. These additions are necessary because they are provisions which delineate MHP authority and should be in Title 9, CCR, Chapter 11.